United Nations S/2004/745

Security Council

Distr.: General
16 September 2004

Original: English

Letter dated 13 September 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 5 May 2004 (S/2004/365). The Counter-Terrorism Committee has received the attached third report from Cook Islands submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

04-51977 (E) 221004

Annex

Letter dated 8 September 2004 from the Secretary of the Ministry of Foreign Affairs and Immigration of the Government of Cook Islands addressed to the Chairman of the Counter-Terrorism Committee

I am pleased to attach herewith for the attention and consideration of the Counter-Terrorism Committee, the Cook Islands response to the Committee's request for further clarification on the Cook Islands supplementary report (see enclosure).

As you may be aware, the Government of the Cook Islands is endeavouring within its limited resources to undertake relevant measures to combat terrorism in all its manifestations. Although the Government has implemented a legislative regime hostile to terrorism activities, the Government recognizes that it still has a number of tasks to complete, notwithstanding acceding to five international conventions and protocols relating to terrorism.

The Government of the Cook Islands would like to reassure the Committee that it will continue to lend its support to the construction of effective global machinery for preventing and suppressing terrorist acts occurring in the Cook Islands and elsewhere.

(*Signed*) Edwin **Pittman**
Secretary

Enclosure

Third Report to the United Nations Security Council
Counter-Terrorism Committee on
Counter-Terrorism Activities in the Cook Islands

1. INTRODUCTION

1.1 Since the submission of its supplementary report (S/2002/1455) on 16 September 2003, the Government of the Cook Islands has committed resources and personnel to put in place a legislative and administrative environment hostile to anti-money laundering with the view to combating the financing of terrorism. It has completed its Anti-Money Laundering and Combating the Financing of Terrorism legislative framework including the recent enactment of the Terrorism Suppression Act 2004 ("the Act") on 1st June 2004. This Act, along with the Aviation Offences Amendment Act 2004 (also enacted on 1st June), completes the Cook Islands legislation required under the 12 counter-terrorism Conventions.

2. IMPLEMENTATION MEASURES

2.1 The Cook Islands recalls the United Nations Security Council Resolution 1373 (2001) of 28 September 2001 calling upon all States to report to the Counter-Terrorism Committee (CTC). The Cook Islands further recalls Resolution 1456 adopted by Security Council Ministers stressing the obligation on States to report to the CTC according to the timetable set by the CTC. Given resource constraints, the Cook Islands has been unable to meet the timetable set by the CTC.

2.2 The Cook Islands reaffirms its support for global efforts to promote international peace and security and is committed to actively participating and collaborating with all States to foster a safe and secure environment. In the spirit of forging cooperation, the Government of the Cook Islands submits this report to the CTC on activities it has undertaken to date and those it proposes to take to counter terrorism as called for in the above Resolutions. This report is additional to its First Report contained in documents S/2001/1324 and S/2001/1324/Add.1. The format of this report follows the outline of UNSC Resolution 1373 (2001).

3. S/RES/1373(2001) Paragraph One (b)

3.1 The principal objects of the Act are to implement UNSCR Resolution 1373 and the twelve Counter-Terrorism Conventions prevent terrorists from operating in the Cook Islands and prevent persons in the Cook Islands from taking part in terrorist activities or supporting terrorism.

3.2 The Act defines "terrorist act", "terrorist group", and "terrorist property", and creates the offence of "terrorism financing".

4. S/RES/1373(2001) Paragraph One (c)

4.1 The Act is divided into seven parts with the most relevant being summarised here.

4.2 Part Two deals with those individuals and entities maintained on those lists established under UN Security Council Resolution 1267(1999). These lists are kept by the Ministry of Foreign Affairs and Immigration and is made available to the general public including although not limited to trustee companies, pearl farmers, car dealers and real estate agents.

4.3 Part Three addresses offences related to financing of terrorist activities, provision of property or services or weapons to terrorist groups, harbouring of persons committing terrorist acts, and recruitment of persons to be members of terrorist groups or to participate in terrorist acts.

4.4 Part Four focuses on the management and forfeiture of property of specified entities. Section 30 of the Act allows for the disclosure of information by a reporting institution to the Solicitor General about the existence of any property in its possession or control that is owned or controlled by or for a terrorist group. The Solicitor General may also tell the Financial Intelligence Unit or other appropriate authority of a foreign country about any information it has about any property of the kind mentioned under this section.

4.5 Part 6 of the Act provides for certain counter-terrorism conventions offences that had not yet been recognised under the law of the Cook Islands as criminal offences[1]. These include the movement of nuclear material, and offences to maritime safety, plastic explosives and terrorist bombings.

5. S/RES/1373(2001) Paragraph One (d)

5.1 Section 12 of the Act, provides that a person must not directly, or indirectly, knowingly make available property or other financial or other related services to, or for the benefit of, a terrorist group, other than for the purposes of humanitarian aid or legal services. However, the Act allows for the provision of the property or service if it is of a kind that is authorised by a resolution of the UN Security Council.

5.2 The Police and other Government authorities including the general public also have access to those lists maintained by the 1267 Committee.

6. S/RES/1373(2001) Paragraph Two (a)

Recruitment

6. 1 Government now has in place legal provisions criminalizing the recruitment of persons to terrorist groups. Section 16 of the Act, makes it an offence for a person to knowingly agree to recruit another person to be a member of a terrorist group or to participate in the commission of a terrorist act. The penalty for contravening this section is a term of imprisonment of up to 14 years.

---

[1] (1) Convention on the Physical Protection of Nuclear Material, Vienna/New York, 3 March 1980;
(2) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Rome, 10 March 1988;
(3) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, Rome, 10 March 1988;
(4) Convention on the Marking of Plastic Explosives for the Purposes of Detection, Montreal, 1 March 1991; and
(5) International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997.

Weapons and explosives

6.2 The Arms Ordinance 1954 makes it an offence for any person to carry or be in possession of any firearm, ammunition, or explosive except for some lawful, proper and sufficient purpose. The Ordinance further provides that no person shall import into the Cook Islands without a lawful permit for the purposes of sale, or sell or expose or keep for sale any firearms, or any cartridges, cartridge cases, gunpowder bullets, shot or other ammunition. The police will maintain all firearms, ammunition or explosives seized or surrendered under this Ordinance for such period as determined by the High Court.

6.3 The Cook Islands is currently completing a draft Weapons Control Bill which seeks to update our laws on firearms with a view to revoking the Arms Ordinance 1954.

6.4 The Act defines a weapon to include a firearm, chemical, biological or nuclear weapon.

6.5 Section 35 of the Act makes it an offence for a person who without the lawful authority imports or exports nuclear material to or from the Cook Islands, or receives, possess, uses, transfers, alters or disposes nuclear material.

6.6 Section 39 of the Act makes it an offence for a person to manufacture, possess or transport unmarked plastic explosives knowing that they are unmarked.

6.7 Customs officials also monitor the importation and export of cargo that arrives or leaves by plane or ship.

7. S/RES/1373(2001) Paragraph Two (b)

7.1 The security-related agencies in the Cook Islands – Customs, Immigration and Police are all in regular contact with regional agencies of which they are members: Oceania Customs Organisation (OCO); Pacific Immigration Directors Conference (PIDC) and the South Pacific Chiefs of Police Conference (SPCPC). Their counterparts in for example, Australia, New Zealand and elsewhere also alert them to anticipated terrorist or other illegal activities.

7.2 In adopting the Combined Law Agency Group (CLAG) concept in the Cook Islands the Customs Division has signed Memorandums of Understanding with the Police, Immigration and Agriculture to ensure inter-agency cooperation when necessary.

7.3 With regards to anti-money laundering and combating the financing of terrorism (AML/CFT) measures, in March 2004 Cabinet established a "Coordinating committee of Agencies and Ministries (CCAM) to provide a "whole of Government" approach to the implementation of AML/CFT legislation. The Financial Intelligence Unit chairs the Committee. One of the first tasks of the Committee was to identify technical assistance and training needs which have been incorporated into a comprehensive matrix and provided to the Asia/Pacific Group for Money Laundering (APG) to distribute to donors. The terms of reference of CCAM were modelled on the Terms of Reference of the National Coordinating Committee distributed on a previous occasion by the APG.

7.4 The Cook Islands AML/CFT Working Group will be renamed the AML/CFT

Consultation Group as it moves its primary focus from legislative reforms to the implementation of the reforms in the financial sector, particularly the private sector. The Head of the Financial Intelligence Unit will utilise this Group as a consultative committee and as the core for private sector training opportunities in respect of the implementation of AML/CFT obligations. The key Government agencies and ministries responsible for the implementation of AML/CFT measures are the Financial Intelligence Unit, Financial Supervisory Commission and the Crown Law Office. These entities are working closely to identify any legislative gaps, implementation issues and operational requirements.

7.5 The Cook Islands participated in a Pacific Roundtable on Counter-Terrorism held in Wellington, New from 10-12 May 2004. The Roundtable was convened to take stock of the region's progress in meeting international counter-terrorism obligations at a time when new anti-terrorism measures are imminent. The Roundtable discussed what the region still needed to do to meet its international counter-terrorism commitments, the resource constraints facing Forum Island members and what assistance could be drawn on.

7.6 The Roundtable also identified a number of possible practical initiatives that the region might take which would assist it in making progress and heightening the region's ability to deter terrorism in the Pacific region.

7.7 The Roundtable shared the view that it would be helpful to establish a network of central contact points. Terrorism is a whole-of-government issue, requiring an active coordination and information sharing with government to fashion an effective national response. A central and senior contact point, with a whole-of-government perspective, could help ensure that efforts to coordinate across the region are more effective.

8. S/RES/1373(2001) Paragraph Two (c)

8.1 The Cook Islands does not have any legislation to deal with refugees. To date, the Immigration Division has not yet issued refugee status to anyone. To address this gap in the legislation, the Immigration Division has drafted legislation to update the current Entry, Residence and Departure Act 1971-72. The new Act will allow for the deportation of persons threatening national security and suspected terrorists. Government has a raft of legislation available (summarised below) to deport undesirable persons.

8.2 The Undesirable Immigrants Exclusion Act 1919 although outdated aims to prevent the entry into the Cook Islands of 'undesirable' persons. Under the Act, anyone who is not a permanent resident and is disaffected or disloyal, or of such a character that his presence would be injurious to the peace, order and good Government may be prohibited from landing in the country.

8.3 The provisions of the Undesirable Immigrants Exclusion Act 1919 have to some extent been duplicated in the Entry, Residence and Departure Act 1971-72 which provides the Minister [for Immigration] with the power to deport persons who in the opinion of the Minister is disaffected, disloyal or likely to be a danger to the peace, order or good Government of the Cook Islands. The Minister may also deport a person from the Cook Islands who cannot support himself through lawful means or has been convicted in the Cook Islands of an offence punishable by imprisonment for one year or more or is residing in the Cook Islands by virtue of an entry or residence permit that was issued as a

result of fraud or misrepresentation or is of bad character or dissolute habits. Under the Entry, Residence and Departure Act 1971-72 also, any person who falsely represents his status liable to a fine and/or imprisonment for a term not exceeding twenty-eight days.

9. S/RES/1373(2001) Paragraph Two (e)

9.1 The Act defines a terrorist act as follows: (1) In this Act "terrorist act" means an act or omission in or outside the Cook Islands that –

(a) constitutes an offence within the scope of a counter terrorism Convention; or

(b) is mentioned in subsection (2).

(2) For paragraph (1)(b), the act or omission -

(a) must –

(i) involve death or serious bodily injury to a person; or

(ii) involve serious damage to property; or

(iii) endanger a person's life; or

(iv) create a serious risk to the health or safety of the public or a section of the public; or

(v) involve the use of weapons; or

(vi) involve introducing into the environment, distributing or exposing the public to any –

a. dangerous, hazardous, radioactive or harmful substance; or

b. toxic chemical; or

c. microbial or other biological agent or toxin; or

(vii) involve serious disruption to any system or the provision of services directly related to essential infrastructure which includes any place used as a harbour or place used for the storage or supply of water, gas or the supply of electricity; and

(b) must be intended or, by its nature and context, reasonably be regarded as being intended –

(i) to intimidate the public or a section of the public; or

(ii) to compel a government or an international organisation to do, or refrain from doing, any act; and

(c) must be made for the purpose of advancing a political, ideological, or religious cause.

(3) However, an act or omission mentioned in subsection (2) does not include an act or omission that -

(a) is committed as part of an advocacy, protest, demonstration, dissent or industrial action and is not intended to result in any harm mentioned in sub paragraph (2) (a)(i), (ii), (iii) or (iv); or

(b) occurs in a situation of armed conflict and is, at the time and in the place it occurred, in accordance with rules of international law applicable to the conflict.

10. S/RES/1373(2001) Paragraph Two (f)

10.1 The Mutual Assistance in Criminal Matters Act 2003 was enacted on 7th May 2003 which is administered by the Crown Law Office. The objects of the Act are to regulate the provision of assistance in criminal matters when a request is made by a foreign country for –

(a) the taking of evidence or the production of a document or other article, for a proceeding in the foreign country;
(b) the issue of search warrants and seizure of anything relevant to a proceeding or investigation in the foreign country;
(c) the forfeiture or confiscation of property for the commission of a serious offence against the law of a foreign country;
(d) the restraining of dealings in property that may be forfeited or confiscated because of the commission of a serious offence against the law of a foreign country, the Act sets out the procedures for providing mutual assistance to foreign jurisdictions.

10.2 This Act also facilitates the Cook Islands providing international assistance in criminal matters when a request is made by a foreign country to make arrangements for a person who is in the Cook Islands to travel to the foreign country to give evidence or assist in an investigation. It also facilitates the Cook Islands obtaining similar international assistance in criminal matters.

10.3 To date, the Crown Law Office has received four requests from foreign countries for assistance; three of these requests have been addressed with one pending.

11. S/RES/1373(2001) Paragraph Two (g)

11.1 As Cook Islanders carry New Zealand passports, their passports are issued by the New Zealand Government. New Zealand has a prized passport that is backed up by good visa free arrangements with many overseas countries. To ensure that New Zealand can continue to provide a high integrity passport the decision was made by the New Zealand Government to reduce the numbers of lower security manual passports in circulation. From 1 April 2004, all New Zealand missions overseas (with the exception of London and Sydney who can produce machine-readable passports) permanently ceased to issue passports. Although, obviously some Missions can still issue limited validity passports for emergency travel situations.

11.2 By way of background information, the full impact of identity related crime in the Pacific region is largely unknown. Currently there is no estimated cost of identity fraud in the Pacific region. To address some of these concerns, the Pacific Region is considering the establishment of a Pacific Region Identity Protection Project under which six registers would be created as part of one intelligence database:

- Fraudulent identities
- Stolen identities
- Lost/stolen documents of identity
- Documents of identity issued by authorities including security features
- Known identity fraud offenders; and

- A Pacific Fraud Centre

11.3 At this stage, the region has agreed to a 12-month pilot Pacific Region Identity Protection Project subject to the availability of funding.

12. S/RES/1373(2001) Paragraph Three (e)

12.1 The Cook Islands is ready to accede to the five international conventions and protocols relating to terrorism[2] as the offences set forth in those Conventions and Protocols have been included in the Act. It is envisaged that the Cook Islands will accede before the end of this year. However, those offences have not yet been included as extraditable offences in the bilateral treaties to which the Cook Islands are a party.

13. S/RES/1373(2001) Paragraph Three (g)

13.1 The Cook Islands Government would deal with an alleged terrorist from another country, which claims political motivation for terrorist acts by consulting with the appropriate experts in other countries or in regional and/or international organisations to assist it in addressing this matter. If it were proven that the alleged person is a terrorist then, the Government would not hesitate in removing the person from the Cook Islands.

14. LEGISLATIVE DEVELOPMENTS

This part describes new or amended legislation relating to counter-terrorism activities, whether enacted by the Cook Islands Parliament or is pending due to various circumstances.

14. 1 NEW LEGISLATION

14. 2 Regulations

- Banking (Fees) Regulations - which sets out various license fees under the Banking Act 2003.
- Extradition Regulations - which sets out the time within which the Attorney-General must make a final decision as to whether to surrender a person to a requesting country (6 days) and the time within which the Attorney-General may issue a temporary surrender warrant (6 days). It also sets out the form in which a judge or JP is to endorse a

---

[2] Convention on the Physical Protection of Nuclear Material, Vienna/New York, 3 March 1980;

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome, 10 March 1988;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, Rome, 10 March 1988;
- Convention on the Marking of Plastic Explosives for the Purposes of Detection, Montreal, 1 March 1991; and
- International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997.

warrant of arrest in a 'backing of warrants procedure' i.e. when application is made on behalf of a South Pacific country for the endorsement of a warrant for arrest of a person issued in that South Pacific country.

- International Companies (Evidence of Identity) Regulations - sets out the requirements for trustee companies or custodians in obtaining evidence of identity in respect of a person for whom a share is held on trust or in respect of a bearer of a bearer instrument.
- Financial Supervisory Commission (Qualifications of Compliance Officers) Regulations - Under the Financial Supervisory Commission Act 2003, licensed financial institutions are required to appoint Compliance Officers whose responsibilities are to establish and maintain office and accounting procedures to enable the financial institution to meet its obligations in respect of customer identification, record keeping and any other matters that may be prescribed. The Act provides that the Compliance Officer's qualifications shall be prescribed, namely, not less than three years work experience in finance, law, accounting or insurance.
- Financial Transactions Reporting (Forms) Regulations - Under the Financial Transactions Reporting Act 2004 ("FTRA"), a financial institute must report any cash transaction and electronic funds transfer over $10,000. It must also report a suspicious transaction. These regulations set out the forms that must be used in providing such reports to the Financial Intelligence Unit ("FIU").
- Proceeds of Crime (Border Currency Report Form) Regulations - Section 96 of the Proceeds of Crime Act 2003 requires that any person leaving or arriving in the Cook Islands carrying more than $10,000 in cash or negotiable bearer instruments, is to report this to the authorities. These regulations set out the form that is to be used when making such a report.

14.3 New Acts

- Financial Transactions Reporting Act 2004 – compilation of FTRA 2003, FTR (Customer Identification) Regulations, and the amendments required to bring the FTRA up to reviewed FATF 40+8.
- Narcotics and Misuse of Drugs Act 2004 – deals with the importation, exportation, manufacture, sale, distribution, use and possession of narcotics and makes provisions for the prevention of misuse of drugs and narcotics. This Act repeals The Narcotics Act 1965. Parliament requested that "methamphetamine" class drugs be upgraded from Class B to Class A to reflect the impact they would have in the Cook Islands.

14.4 Amendments

- Proceeds of Crime Amendment Act 2004 – removes the discretion for forfeiture and pecuniary penalty orders on conviction and introduces the concept of "organised criminal group". The amendment also incorporates the terms "tainted property" and "terrorist property".

- International Companies Amendment Act 2004 – removes ministerial exemptions and secrecy provisions and tidies up some poorly drafted provisions existing in the principal Act such as section 54A which deals with "capital maintenance".
- International Trusts Amendment Act 2004 – tidies up secrecy provision and certificate of registration section of the primary Act. Ministerial Exemptions have been repealed.
- International Partnerships Amendment Act 2004 – tidies up secrecy provision and removes ministerial exemption provisions.
- Crimes Amendment Act 2004 – new Part of the act deals with "People Smuggling and Trafficking", expands the definition of "Money Laundering" to reflect the recommendations of the IMF Module II assessment in February 2004 and the reviewed FATF 40+8 Recommendations. This amendment increases the penalty as the principal offence, the provision of explosives, is already in the Crimes Act.
- Aviation Offences Amendment Act 2004 – deals with security issues surrounding airports.
- Mutual Assistance in Criminal Matters Amendment Act 2004 – overrides all secrecy provisions when complying with the MACM Act and tidies up some of the terminology from the principal Act.

14.5 Pending Legislation

- The Weapons Control Bill is currently being finalised, with a view to being tabled at the next Parliament session.

14.6 Pending Regulations

- Revocation – International Companies (Evidence of Identity) Regulations 2003 and a new International Companies (Evidence of Identity) Regulations substituted so as to be 'in line' with the customer identification provisions of the Financial Transactions Reporting Act 2004.

United Nations S/2004/746

Security Council

Distr.: General
17 September 2004

Original: English

Letter dated 14 September 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 21 November 2003 (S/2003/1127). The Counter-Terrorism Committee has received the attached fourth report from Norway submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

04-51983 (E) 191004

Annex

Letter dated 25 August 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Norway to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On instructions from my Government, I hereby have the honour of enclosing a further report with information on the questions and comments raised in the letter of 12 November 2003 from the Counter-Terrorism Committee to the Government of Norway (see enclosure).

My Government stands ready to provide the Committee with further reports or information, as necessary.

(*Signed*) Hans Jacob **Frydenlund**
Chargé d'affaires a.i.

Enclosure*

Fourth report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

NORWAY

Introduction

This report is prepared in accordance with the questions contained in the letter of 12 November 2003 from the Chairman of the Counter-Terrorism Committee to the Permanent Representative of Norway to the United Nations.

1. Implementation measures

Effectiveness in the protection of the financial system

1.1

The Anti-Money Laundering Unit of the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM) has sufficient personnel and the necessary up-to-date technical equipment to receive and analyse financial information that could prevent the financing of terrorism in Norway. The authority was given four new positions in the money laundering team this year.

1.2

The commercial operation of cross-border money transfer systems open to the public has long been prohibited in Norway for all other than licensed banks. New legislation regulating cross-border money transfers was adopted in June 2003, and entered into force on 1 January 2004 (see the enclosed Act of 20 June 2003 no 41 relating to measures to combat money laundering of proceeds of criminal activity etc). The legislation allows for financial undertakings other than banks to operate money transfer systems. These undertakings are supervised by the Financial Supervisory Authority of Norway and subject to licensing and capital requirements and a duty to report suspicious transactions. The scope of the regulations was broadened by removing the limitations on commercial operations and systems open to the public, and including transfers between third countries. The new legislation eliminates the possibility of operating informal money transfer systems legally, and thereby provides a more effective tool for the Financial Supervisory Authority and the police to stop the operation of informal money transfer systems and prosecute those responsible for it. The main purpose of broadening the scope of application was to prevent such systems from being used for the purpose of financing terrorism or money laundering.

Sections 147 a and 147 b of the General Civil Penal Code (Act of 22 May 1902 No. 10) attach criminal liability to any person who uses the Hawala bank systems or other informal money/value transfer systems for the purpose of financing terrorism. The maximum penalties provided for by these provisions are imprisonment for a term not exceeding 21 years or 10 years, respectively.

* Annexes are on file with the Secretariat and are available for consultation.

For further information on the scope and substance of these provisions, see Norway's second report to the CTC.

1.3

Currently no non-profit organisations are the subject of judicial action in relation to financing of terrorism.

The Financial Supervisory Authority has issued a circular letter to all financial institutions on how to follow up the UN -list of individuals and entities belonging to or associated with the Taliban and Al-Qaida organisation and the FATF list on Non-Co-operative Countries and Territories.

The Anti-Money Laundering Unit has given presentations on the two cases described below to financial institutions at meetings and seminars. The financial institutions have been advised to use the UN list, and also to be aware that the use of the Hawala banking system or of a non-profit organisation may indicate the financing of terrorism.

The two Hawala bank cases presented below are examples of non-profit organisations that were suspected of possible contact with a terrorist organisation, partly because Barakaat world-wide network has been on the UN list since November 2001. One of the people with the right of signature to one of the bank accounts in Oslo was on the same UN list. This person had emigrated from Norway at the time he was listed by the Security Council sanctions committee for Al-Qaida.

During the period 1996-2001 the Anti-Money Laundering Unit received several reports from Interpol and other sources that certain charity organisations were using bank accounts in official Norwegian banks for purposes that could include criminal activity. The holders of the accounts had names that indicated that they were charity organisations. Ethnic Somalis with Norwegian nationality had access to the bank accounts. Investigation into the transfer of money through these accounts revealed a Hawala banking system.

The Hawala banking system was being used for the transfer of money to bank accounts in Dubai and Djibouti, and further to Somalia and other countries in Africa and many other parts of the world.

The Anti-Money Laundering Unit was able to identify the seven persons most actively involved. On 5 October 2001 the offices of two Hawala banks (Barakaat and Dahabshiil) and 11 other premises were searched and seven persons were arrested, all of them Somalis.

The two Hawala banks were operating from two different offices in Oslo. One was a branch of Barakaat in Dubai, and the other was a branch of Dahabshiil in Djibouti.

Two separate cases were brought before the courts, in May and June 2003. Seven persons were indicted and all of them were convicted for financial crime.

Suspicion that the activity had something to do with financing of terrorism could not be

substantiated by the prosecutorial authority.

The seven persons were charged with various financial offences, e.g. money laundering and violation of the Tax Act, the Accounting Act and the Currency Act and Financial Services Act. All of them were convicted and they all appealed. The Appeal Court has decided that it will hear both of the cases. In the Barakaat case the appeal is limited to the conviction pursuant to the Tax Act, the Currency Act and money laundering. This means that the conviction for violation of the Financial Services Act, where the current anti-money laundering provisions are set out, and the Accounting Act, is final and enforceable.

According to the judgement of the lower court (Oslo tingrett) the following could be observed as regards the Barakaat case: Four bank accounts were used. One belonged to Al Baraka Exchange in Dubai. The person with disposal of the account is named on the Security Council sanctions committee for Al-Qaida's list. The other accounts belonged to the Al-Ansar Relief Agency, the Badar Relief Organization and the Somalia Youth Relief Organization. From 1 January to 5 October, 16 229 transactions were carried out. The total amount of these transactions was USD 3 948 839. The average amount per transaction was USD 243. A fee had to be paid for each transaction. The total amount of the fees was USD 121 431. 94 per cent of the transactions and 86 per cent of the total amount went to Somalia or other African countries. About 1000 remitters sent money to about 900 receivers. USD 549 790 was sent to other countries.

The following could be observed in the Dahabshiil case: Five bank accounts were used. The accounts were registered in the following names: Hirad Emergency Relief and Somalia Help Handicap. From 1 January to 5 October, about 18 000 transactions were carried out. The total amount was about USD 7 200 000.

The source of the money remained unclear. Given the low average income of the people involved, and the fact that few traces of fund raising could be observed, the suspicion was that some of the money had to come from illegal activity. However, it could only be proved that two amounts, USD 103 660 (the Dahabshiil case) and USD 42 131 (the Barakaat case) did not have a legal source. In the Dahabshiil case the court concluded that the illegal source was drug trafficking. In the Barakaat case the court concluded that the illegal source was tax fraud. In both cases the money laundering was found to be negligent.

The final recipient of the money remained unclear. It was suspected that some of the money was used for smuggling persons to Norway. Some Somali asylum seekers have told the Norwegian police that their travelling expenses were financed via the Hawala banking system.

ØKOKRIM received 3459 reports of suspicious transactions in 2003. About 100 of them led to investigation in 2003.

1.4

Confiscation of assets is decided upon by the courts. The prosecuting authority may bring the question of confiscation before the courts in criminal proceedings against the perpetrator or it may institute proceedings dealing solely with the question of confiscating

assets.

Section 34 of the General Civil Penal Code allows for the courts to decide upon confiscation of the proceeds of a crime, and for such confiscation to be carried out, without requiring that the perpetrator has been convicted of the crime.

1.5

Section 37 d of the General Civil Penal Code allows for confiscated property to be used to satisfy claims for damages brought by a person who claims to have suffered injuries as a result of the commission of an offence. This provision empowers the courts to decide that any confiscated property shall be applied, wholly or partly, to cover any claim for compensation on the part of the aggrieved person and/or any damage caused by the offence.

The procedures for the use of coercive measures at the request of a foreign state are set out in the Act of 13 June 1975 No. 39 relating to Extradition of Offenders etc. (The Extradition Act), Chapter V. These rules apply to all requests, not just requests related to terrorist offences.

According to the Extradition Act section 24 subsection 2, the request shall be submitted to the Norwegian Ministry of Justice and the Police, unless otherwise stipulated in an agreement with the foreign state. The request shall contain information as to the nature, time and place of the punishable offence. It may only be complied with if it is established that a decision has been made to use coercive measures issued in accordance with the legislation of the requesting state.

The Ministry may reject the request if it does not comply with the conditions of subsection 2, or if it is obvious that it will be rejected. If the request is not refused under this provision, it shall be sent to the chief or the deputy chief of the Police Security Service or to a Public Prosecutor. The court will decide, in accordance with national law, whether coercive measure may be used.

When the court considers whether there is legal justification for coercive measures, it shall also consider whether the other conditions of this section are fulfilled.

1.6

The group appointed to draft the Money Laundering Act, which was mentioned in the third report, has now finished its work.

1.7

One of the tasks of Norwegian police is, in accordance with section 17 b, subsection 5 of the Norwegian Police Act, to prevent and investigate politically motivated violence or coercion. Prosecution is effected by the national prosecution system.

The Norwegian police produce strategic analyses and more short-term threat assessments as part of their regular activities. The counter-intelligence work done by the police is based on the international threat situation, and it is primarily focused on suspicious groups and individuals and possible networks.

Police institutions participate in international forums for combating terrorism. Such international co-operation takes place at both the strategic and the operational level. Operational co-operation includes running agents across borders and providing technical assistance.

Norway's national counter-terrorist strategy reflects the country's international commitment and is characterised by close co-operation between the different police agencies. The prioritised area "human and technical intelligence" is included in the operational activities.

The Norwegian counter-terrorism strategy also includes special forces. Both the national police and the armed forces have specially trained and equipped personnel for countering terrorist attacks. These forces maintain a high standard. They conduct joint exercises to prepare them to operate together in real-life situations. The police and military units co-operate regularly on protecting potential terrorist targets.

The customs authorities in Norway give high priority to the prevention of trafficking in drugs in border control activities, independently of any counter-terrorism strategy. The control of arms, biological and chemical weapons, their precursors and illicit trafficking in radioactive materials are all areas where the customs authorities have control powers related to entry into, or departure from, the country - although another authority or agency is administratively responsible for the legislation. Suspicious shipments and seizures are most often reported to the police, who have the investigative powers and are responsible for establishing any links to terrorist activity.

In 2003, the Norwegian customs authorities invested in two mobile scanners in order to identify hidden goods in trucks and containers. Moreover, a detector portal system for nuclear and radiological materials was set up on Norway's only non-Schengen road border crossing at Storskog, on the border with Russia.

1.8

There is a close dialogue and co-operation between all the agencies involved in combating terrorism in Norway, where measures are discussed and evaluated. This takes place both at ministerial and at expert levels.

The Norwegian police actively target individuals and groups of individuals who may be potential recruits to extremist or terrorist groups. They also have an open dialogue with representatives of various groups about their mandate, which includes preventive counter-terrorist work. These contacts are of a general, preventive nature and do not concern recruitment in particular.

The various agencies and police institutions in Norway co-operate closely on a daily basis on combating serious and cross- border, organised crime. The exchange of information and co-ordination of efforts are being intensified. Combating terrorism is an integral part of these important police activities.

The police are pursuing an active preventive policy, in co-operation with other agencies; this includes information campaigns, provision of assistance in special cases as well as tactics

designed to disturb the environment and implementation of "counter measures" in situations where links to terrorist networks or organisations are suspected.

1.9

The Norwegian police in general make use of untraditional investigative techniques as mentioned, none of which are applied to terrorism alone. These techniques are used particularly to control information via e-mail and the Internet, including chat channels. The Norwegian police have collaborated with the police in other states on tracing communication on the Internet.

Special investigative techniques such as undercover operations, controlled delivery, "pseudo purchases" and infiltration are not governed by statutory law in Norway. Control of the use of these kinds of special investigative techniques is exercised by the Director General of Public Prosecutions and, in criminal proceedings, by the courts.

Insofar as there is a need for it, such special investigative techniques are used in co-operation with other states. This is practical in particular in cases involving international organised crime.

1.10

The government-appointed commission charged with assessing whether the police should be allowed to use new crime prevention methods has needed more time to conclude its deliberations than first envisaged. This work has however recently been finalised. The report has now been submitted to the Ministry of Justice. The next step will be to distribute the report to a number of addressees for comments, before further considering the need for statutory amendments.

1.11

The legislative proposals referred to on page 27 of Norway's first report have since been adopted by the Norwegian parliament, the Storting, and have now entered into force. The most recent of these legislative amendments, allowing persons who are in danger of being subjected to serious crime to have their identity changed, came into force 1 January 2004.

In addition, a number of amendments have been made to the Criminal Procedure Act (Act of 22 May 1981 No. 25), which inter alia limit the access to information of a person charged with an offence and his defence counsel in certain cases, namely if the prosecuting authority will not put the information forward as evidence in the case and the person charged or his defence counsel having access to the information may entail any risk a) of a serious crime being committed against any person's life, health or liberty, b) that the possibility of a person participating under cover in the investigation of other cases as specified in the second paragraph will be considerably hindered, c) that the possibility of the police preventing or investigating crimes as specified in the second paragraph will be considerably hindered because information concerning other cases or police methodology will become known, or d) that police collaboration with the authorities of another country will be considerably hindered. A decision to exempt documents from inspection may only be made if it is strictly necessary and does not give rise to considerable doubts in regard to the defence of the person charged. These legislative amendments came into force on 9 May 2003.

1.12
Although investigations have been carried out, so far no individuals in Norway have been indicted for terrorist activities, financing of terrorist activities, recruitment to terrorist organisations or providing or inviting support for terrorists or terrorist organisations.

1.13
So far no individuals have been prosecuted or indicted for inviting and/or providing support for proscribed organisations and other terrorist groups or organisations. One investigation related to a possible terrorist organisation from northern Iraq was recently dismissed. Norway does not maintain a separate national list of individuals or entities linked to terrorism.

Effectiveness of customs, immigration and border control

1.14
There is an obligation in Norway to declare to the customs authorities any movement of cash on both import and export exceeding the amount of NOK 25 000, or the equivalent amount in other currencies. All seizures of cash are to be reported to the police, as well as suspicious declarations. For negotiable instruments and metals, there are no regulations except the obligation under customs law regarding customs value, customs duties and VAT. In regard to control regimes for precious stones, Norway is a participant in the Kimberley Process Certification Scheme. The regulation implementing the regime (enclosed) entered into force 1 April 2004.

1.15
The Norwegian Government's efforts to improve ship and port facility security have been focused mainly on the preparation and implementation of SOLAS amendments and the new International Ship and Port Facility Security Code (ISPS code) adopted by the International Maritime Organization (IMO) in December 2002. There is also an ongoing process connected to the EU regulations on SOLAS and the ISPS code.

Norway took part in the preparation of the IMO amendments throughout 2002. After the adoption of the IMO measures, the Government has had under consideration the distribution of responsibilities for enforcement of the code. The Ministry of Trade and Industry and the Norwegian Maritime Directorate, which is a subordinate agency, is responsible for the ship-related aspects (merchant fleet) and the Ministry of Fisheries for port-related aspects. The Ministry of Trade and Industry is co-ordinating the implementation of the IMO measures involving co-operation between government agencies, other governments and local authorities. Our main focus has been to establish the respective roles and responsibilities of all parties at national level, and to ensure that the shipping industry is able to detect/assess security threats and take preventive measures against security incidents affecting ships. The Norwegian Maritime Directorate has circulated draft regulations on the implementation of IMO and EU measures into Norwegian law to relevant bodies for comment.

The Norwegian Maritime Directorate has classified Det Norske Veritas (DNV) and four other classification societies as recognised security organisations (RSOs). The ship security plan will be approved by one of these classification societies on behalf of the Norwegian flag state administration.

The Ministry of Trade and Industry is responsible for emergency planning and crisis management related to merchant shipping. The Ministry is working closely with the Contingency Planning Section of the Norwegian Shipowners' Association as a subordinate agency on developing further plans and measures adjusted to the international strategic environment. Furthermore, there is an Advisory Board comprising members primarily from the shipping industry, which will also assist the Ministry in effecting measures related e.g. to strategic sealift and ship security.

Legal and administrative procedures developed by Norway to protect offshore installations from the risks of terrorist attacks.

Norway has had a focus on terrorist attacks on offshore installations since the mid-1970s. This is one of the areas in which the operating companies have drawn up emergency plans. Exercises involving the police, military forces, the petroleum authorities and operating companies have been held annually.

In autumn 2003 the Petroleum Act was amended to include new provisions. Section 9-3, "Emergency preparedness against deliberate attacks", reads:
"The licensee shall initiate and maintain security measures to prevent deliberate attacks against facilities and shall at all times have contingency plans to deal with such attacks.
The licensee shall place facilities at the disposal of the public authorities for drills and shall participate in such drills insofar as this is necessary.
The Ministry may order implementation of such measures as referred to in the first and second paragraphs."

Section 9-4 "Safety zones" is not specifically intended to protect against terrorist acts, but to control the traffic entering the zone. According to the provision, there shall be a safety zone around and above offshore installations. The normal safety zone is 500 metres. The platform manager is not only responsible for the traffic entering the zone, but also for any traffic outside that could be a threat to the installation.

The Norwegian Coastal Administration, as represented by the Coast Directorate, is developing regulations concerning special security and anti-terrorist measures for Norwegian ports. The regulations are based on the ISPS code.

The Norwegian Maritime Directorate is also drawing up regulations concerning ships and mobile drilling units, based on the ISPS code, which will enter into force on 1 July 2004.

The petroleum industry is affected by IMO regulations, and has to take into consideration the requirements of the ISPS code through the two above-mentioned regulations. The petroleum

authorities, as represented by Safety Petroleum Authority Norway, are following this work very closely.

The petroleum industry itself, as represented by the Norwegian Oil Industry Association, has drawn up detailed guidelines concerning what should be done in the event of a terrorist attack.

Regarding security on mobile offshore units:
For mobile offshore units flying the Norwegian flag, the Norwegian Maritime Directorate requires following security-measures:
- Mobile offshore drilling units that are mechanically propelled must implement the ISPS code. Exceptions may be made when they are on location, or if they shall not move outside the Norwegian continental shelf (not in international trade).
- Other mobile offshore units are not covered by the ISPS code. The Norwegian Maritime Directorate may decide whether the ISPS requirements should be made mandatory for these kinds of units as well, but for the time being it is not considered necessary.

Norway is now working to fulfil the obligations laid down in chapter XI-2 of the SOLAS Convention and the International Ship and Port Facility Security Code (ISPS code). The Ministry of Fisheries is responsible for implementing the regulations related to ports, and the Ministry of Trade and Industry is responsible for implementing the regulations concerning ships.

The Norwegian National Coastal Administration, as the Ministry of Fisheries' advisory and executive body, has been given the responsibility to ensure that the requirements of the ISPS code are fulfilled by 1 July 2004. To ensure the uniform implementation of the provisions of the code, the Norwegian National Coastal Administration has published a handbook that explains how ports should proceed in order to comply with the code. In particular, the handbook provides guidance for carrying out security assessments and model security plans.

Recognised Security Organisations are currently making security assessments and security plans in various ports. The Norwegian National Coastal Administration will approve the final plans before they are forwarded to the IMO.

National regulations laid down by the Ministry of Fisheries ensure that the port facility security assessments and plans are periodically reviewed and updated, taking account of changing threats and minor changes in the port facility. Security assessments and security plans will also be reviewed and updated when major changes in port facilities take place.

Maritime transport accounts for 95 per cent of the transport to and from Norway. Thus, ports play a significant role in the overall transportation system. Preparedness and supply plans are therefore drawn up in order to ensure that transport needs are met in crisis situations.

1.16
Norway has two shipping registers, the Norwegian Ordinary Ship Register (NOR) and the Norwegian International Ship Register (NIS).

In principle we do not require that the ultimate beneficial owner be determined, but we require documentation on the legal registration of the company in its jurisdiction. In addition the Norwegian shipping register requires:

a) The owner's name, also the firm, the form of company and place of registration
b) The address of the owner's head office
c) If the owner is a general partnership: the names, addresses and dates of birth of all partners with liability, and if a partner is a limited partnership or limited company or other company with limited liability, also the information required from such companies according to items d) and e) below
d) If the owner is a limited partnership or limited company or other company with limited liability: the partnership capital and how much of it is paid up; and if the partnership capital has not been fully described, only the amount described may be given as the company's capital
e) If the owner is a company: the names, addresses and dates of birth of the members of the board and the managing director, and the names of those entitled to sign for the company.

Further:

-The company must appoint a Norwegian representative to accept writs on behalf of the owner. The representative must fulfil Norwegian nationality requirements.
-The vessel shall be operated by a Norwegian shipping company with its head office in Norway
- EEA citizens and companies are accorded the same treatment as Norwegian citizens and companies.

In addition the Ministry of Trade and Industry has participated in the Maritime Transport Committee in the OECD, which deals with the issue of ownership and control of ships. In one of its security-related projects, the Maritime Transport Committee has examined the issue of transparency and control of ships. The committee's report deals with a number of measures for enhancing the transparency of beneficial ownership that could be taken by jurisdictions and shipping registers that permit anonymity, as well as some measures that could be taken by governments facing potential terrorist threats. Owners are also the ultimate beneficiaries of the revenue generated by vessels they own, and can put these revenues to any use they wish, including activities that may be inimical to security interests.

1.17

Norway has recently implemented the common EU regulations on aviation security. This includes:

- Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security
- Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security

These legal acts will be followed very soon by implementation of:
- Commission Regulation (EC) No 1486/2003 of 22 August 2003 laying down procedures for conducting Commission inspections in the field of civil aviation security
- Commission Regulation (EC) No 1217/2003 of 4 July 2003 laying down common specifications for national civil aviation security quality control programmes

Once Regulation (EC) 2320/2002 and 622/2003 have been implemented, we will be in full compliance with ICAO Annex 17 standards and recommendations.

As to the second question, the ICAO has not yet conducted security audits at international airports in Norway.

Effectiveness of controls preventing access to weapons by terrorists

1.18
The following legislation relating to control over firearms, ammunitions and explosives is also relevant for preventing terrorists from gaining access to firearms:

The Arms and Ammunition Act of 9 June 1961 chapter V sets out all necessary requirements and conditions for the police to issue a licence to a company or an individual to manufacture, import, export, transfer or retransfer firearms and ammunition. The more specific conditions that are to be met are set out in regulations laid down pursuant to this Act.

The purpose of this legislation is to ensure that only responsible and reliable companies and individuals are permitted to handle firearms and ammunitions. It also imposes a duty on the police to carry out controls over all aspects of handling firearms and ammunitions.

The Act of 18 December 1987 and appurtenant regulations govern the export of all kinds of strategic goods and technology and the provision of services. The Act provides for a license system. The purpose of this legislation is to ensure that the national authorities have control of the export of strategic goods and provision of services.

Norway is a member of the following international bodies dealing with issues relating to firearms and explosives :

The Australia Group (chemical and biological weapons), the Missile Technology Control Regime (delivery systems), the Nuclear Suppliers Group and the Wassenaar Arrangement (conventional arms and high technology products). These regimes have established routines for exchanging information.

The Norwegian customs authorities enforce the regulations derived from the various international export control and sanctions regimes in accordance with procedures laid down by Ministry of Foreign Affairs.

The mechanisms for exchange of intelligence in a broad perspective are established at both international and national level. International information exchange is dealt with at meetings of

the various export control regimes, and the Norwegian customs authorities take part in ad hoc meetings held specifically to discuss the export control of weapons and strategic goods from a customs perspective.

At the national level, there is close co-operation and regular meetings between the Ministry of Foreign Affairs, the armed forces, the police, the customs authorities and expert agencies to co-ordinate efforts in this field and exchange information.

The Norwegian customs authorities have not implemented an intelligence-based risk management solely to identify high-risk shipments of weapons and explosives. However, the customs authorities have a high-risk management system designed for all kinds of cross-border crime. Relevant information from the police and others about high-risk shipments can easily be fed into customs systems as intelligence or in order to identify and intercept such shipments. Single data elements, or data elements in combination, regarding the transport and the goods would be required in order to identify suspicious shipments. Such elements could be the identification number of the shipment, country of export/import, exporter/importer, description of goods, transport route, identification of persons, etc.

1.19

The Norwegian customs authorities seconded a liaison officer to Europol as from 1 January 2004. Based on the systems established within Europol, the Norwegian customs authorities will be able to some degree to take action based on instructions and requests from Europol, and to provide relevant information to the national police.

2. Assistance and guidance

Norway has continued the anti-terrorism work in the SADC area, recently supporting a programme by the South-African NGO (Institute for Security Studies). The title of the programme is "Enhancing the capacity of southern African states to counter terrorism, money-laundering, organised crime and corruption". The goal of the terrorism component is to provide research and facilitation assistance to the SADC Secretariat and SADC states to formulate legislative and institutional changes that meet domestic and international requirements. In addition, to provide ongoing strategic assessments to opinion and decision makers and governments that will reflect on the vulnerability of the region and individual states to terrorism and possible strategies to counter it. The programme will run from 2004-2006 and have been supported with USD 3.2 million.